

Count 19

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Elizabeth Nelson
PO Box 1422
WARREN MI 48090

Case No. 2:22-cv-10918

ALBERT THROWER
PO Box 6702
Cleveland OH 44101

Judge Leitman

Plaintiff

-vs-
Patti

Magistrate: Anthony P.

SERVICE TOWING INC
6006 Rinke Ave
Warren MI 48091

SERVICE TOWING INC
6006 Rinke Ave Warren MI 48091

ABLE TOWING LLC
6006 Rinke Ave Warren MI 48091

EDWARD D. HERTZ, DECEASED, ESTATE* ex-President
6006 Rinke Ave Warren, MI 48092

FILED USDC - CLERK DET
2024 FEB 20 PM 2:34

BRUCE HERTZ Secretary
6006 Rinke Ave Warren, MI 48091

Sandra A Hertz Registered Agent of SERVICE TOWING INC.
6006 Rinke Ave Warren MI 48091

RANDY SULLIVAN* Driver Truck 226
6006 Rinke Ave, Warren MI 48091
(mistakenly named as Randy Hertz)

DENNIS HERTZ Driver Truck 162
6006 Rinke Ave., Warren MI 48091

ROBERT SCOTT WARREN PROPERTY MAINTENANCE DIVISION
SUITE 315. ONE CITY SQUARE, WARREN, MI, 48093

BRIAN KIJESKI ID DOE CITY OF WARREN MI PROPERTY
MAINTENANCE 1 City Square, Warren, MI 48093

JAMES CUMMINS BUILDING DEPARTMENT DIRECTOR
1 CITY SQUARE, WARREN, MI 48093

PETE WARACK ID DOE CITY OF WARREN MI EMPLOYEE
1 CITY SQUARE, WARREN, MI 48093

CURTIS GAUSS #22 ID'd DOE CITY WARREN MI DEPARTMENT OF
PROPERTY MAINTENANCE EMPLOYEE 1 City Square, Warren, MI 48093

1 DOES Id'd= MARY MICHAELS WARREN CITY ATTORNEY
1 City Square 3rd Fl Warren MI 48093

GUS GHANAM WARREN MI Service Director
1 City Square, Warren, MI 48093

3 JOHN DOE WARREN POLICE DEPT POLICEMEN
29900 CIVIC CENTER DR WARREN MI 48093

WARREN POLICE van dyke substation supervisor CAPTAIN WILLIAM REICHLING 29900 CIVIC CENTER DR WARREN, MI 48093

CITY OF WARREN
1 City Square, Warren, MI 48093

WARREN POLICE COMMISSIONER WILLIAM DWYER
29900 CIVIC CENTER DR WARREN, MI 48093

Mayor James Fouts
1 City Square, Warren, MI 48093

et al. Defendants.

OBJECTION TO THE MAGISTRATES REPORT

MAGISTRATE ERRED TO THE PREJUDICE OF THE PLAINTISS BY DISMISSING THE LAWSUIT BECAUSE ALL ALLEGATIONS MUST BE ACCEPTED AS TRUE AND PER THE FACTS SAME AS IF REWRITTEN HEREIN THE PLAINTIFFS' STATED A 4, 5, 14th AMENDMENT CLAIM WHEN CITY DEFENDANTS ENTERED ONTO PLAINTIFF LEASED PROPERTY WITHOUT COURT ORDER, NOTICE AND AN OPPORTUNITY TO BE HEARD, WITHOUT TICKET AND TOWED 4 VEHICLES FROM (Ps') PRIVATE PROPERTY FALSIFIED THE ADDRESS THE CARS WERE TOWED FROM

Per record Ps' filed complaint amended same with ECF 6=operative complaint.

Fourth Amendment “ right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be

seized.” Per the record all the facts in the complaint must be accepted as true. Ps=Thrower/Nelson affidavits affirmation everything in complaint is true under oath per 28 USC Sec 1746. To support **denial of summary judgment**, an issue of fact in dispute must be both genuine and material, i.e., one upon which a reasonable fact finder could base a verdict for the non-moving party and one which is essential to establishing the claim. *Anderson v. Liberty Lobby*, 477 U.S. 242, 248. (Ps’) are pro’se *Haines v Kerner*, 404 US 519 should be held to a more liberal standard than attorneys. (Ps’) pray for “liberal standard”. 4th USCA “right of the people to be secure in their persons, homes, papers, effects, against unreasonable searches and seizures, shall not be violated...”, by “state actors”, “government officials” or private parties acting “in concert”, “conspiracy” with same. (PN) 4 vehicles were at her “home”. (PT) had “personal property” removed from his MI “home” by “state actors” (D) Scott, Does from 7568 Hudson Ave Warren per-all Exh’ts are from ECF 98: Ex 1, PN=Nelson lease, Ex 2 PT lease is 7568 Hudson Ave, Ex 3 driver’s license, Ex 4 mail. Ex 25, 26 (PN) tax returns showing 7568 Hudson Ave address, Ex 27 Summer Tax Bill-shows ownership Ex 13- 4 pg deed, Ex 14 Adjacent lot ownership, Ex 10 (PN) PNC Online Banking form, Ex 11: DTE Energy Bill “7568 Hudson Ave Warren”, Ex 12 Consumer’s Energy Bill same time, same address, Ex 17 Insurance papers pg 1-4, Ex 21 Michigan SOS LARA statement for ownership “Saint Anthony the Great ..Monastery”. See Ex 22; 2011 NILI et al v City of Warren et al, consent

decree @ para 12 where (D) city of Warren agrees to obtain administrative warrant if denied entry, yet per Ex 37 Warren Receipt, (D) Scott repeatedly enters (Ps') property 3/25/20,

Lawyer for tow company (Ds') STI Hertz Bros., ""Sixth Circuit in *Nugent v Spectrum Juv Just Servs*, 72 F4th 135, 139-140..recognized that several tests have been employed to determine when a private entity may qualify as a state actor, including the entwinement test. The test requires Plaintiffs to show that PRIVATE ENTITY is 'entwined in the private entity's management or control." *Brentwood Acad v Tenn Secondary Scholl Athletic Ass'n*, 121 SCt 924. In this case (Ps') allege simple facts in complaint that tow company STI, Hertz Bros defendants were called to tow cars off private property by "state actors". See Ex 5,6,7,9 ADMISSIONS. As noted, (Ds') STI, AT LLC, HERTZ BROS tow company claims they have a contract with (D) city of Warren that mandates they comply with city of Warren employees requests. (Ds') STI towing company have not provided contract. Further, a contract does not make them immune from violating United States Constitutional rights 4, 5, 14th Amendment and state laws and in fact shows "as to the elements of these three theories..nexus test, state compulsion test, and conspiracy framework are all sufficient bases on which to find private company defendants liable under 1983" *Memphis Tenn Local ... v City of Memphis*, 361 F3d 898, 905.

(Ds') STI, Hertz Bros argue that since police are involved in the illegal tow scheme, then they are not liable. (D) Scott, Doe -Kijewski, et al., are "state actors" for 42 USC Sec 1983 purposes. 1st, police or (D) Warren city workers (D) Scott is "state actor" so it does matter if police are involved or not. 2nd) Ex 19 pg 1-4 receipts from (D) STI say "Reqd By: WARREN POLICE DEPARTMENT", so if the under oath ADMISSIONS Ex 5-9 police were NOT involved, creates allegation of further "falsified STI receipt", to allege "Warren Police Dept" "Reqd" tow to CYA (Ds') STI, Hertz Bros. towing cars during covid pandemic. "Abandoned Vehicle" statute (Ds') STI, Hertz Bros tow company are not allowed to tow cars off private property unless called by property owner or police. (Ps') aver being aware of this (Ds') STI tow company, Hertz Bros "falsified the address" the cars were towed from correct address-where they were titled to 7568 Hudson Ave, to incorrect address "7528 Hudson Ave". Like tow companies in *Robertson v Breakthrough et al*, argue state law has exclusive "subject matter jurisdiction", based in "Mich Comp L Sec 257.252e(1), ..relies on *Gilbert-Rutter v Parkview Towers*..WL 2016 3913713 at 2 (ED MI).. however *Gilbert-Rutter*.. concerned a single plaintiff challenging the one-time tow of a vehicle with expired plates". See Ex 23 *Gilbert-Rutter v Parkview Towers et al.*, Case 16-11-10, dismissing complaint @ p 3 para 1 "Plaintiff's amended complaint, all allegations and claims

surround the legality of towing of her car from private property of Parkview Towers. Plaintiff admits .. given 48 hours notice by ..prior to towing.. admits .. car had expired plates, and .. considered abandoned. .. admits lease .. from Parkview states.. vehicle can be towed for expired plates” Per MCL §257.252a(2)(a), an abandoned vehicle is defined ..“[a] vehicle that has remained on private property without consent of owner.” Case *sub judice* differentiated because 4 cars were towed off private property without “notice of opportunity to be heard”, b) towed during covid lockdown 5/1/20, c) state actors or STI, ATL, Hertz Bros under Mi Abandoned vehicle code was not allowed on private property to tow cars d) cars had current plates, insured to same address as (PN) owner’s driver’s license e) Came on private property without warrant behind a privacy fence f) “falsified the address on the paperwork 4 cars were towed from and submitted falsified paperwork to Warren Police Dept which in turn submitted same LIENS computer, Michigan Secretary State (SOS) Ex 32 pages 1-2 & Ex 33 MAZDA registration-same 7568 Hudson g) towed without police involvement h) “other acts” case 23-cv-11508 *Nelson et al., v Scott et al.*, same defendants and tow company towed different cars 7/7/21, and tow company (Ds’) worked with (D) Scott to “set up” (PT), false imprisonment, assault, citizens arrests Ex 24 Warren 7/16/21 police report. “scheme... violated federal statutes and constitutional rights –all ‘arise

under Constitution, laws, treaties of United States.’ 28 USCA Sec 1331. This Court has jurisdiction. *Carmen Auto Sales III Inc. v ..Detroit*, 2018 WL 1326295, @ 3-4”, “explaining: ‘Congress—not state a state legislature—controls federal court jurisdiction..nothing in Sec 257.252e(1).. limits a federal court’s jurisdiction to hear federal claims...’” *Robertson et al v Breakthrough et al.*, pg. 11. Facts of complaint, Michigan Vehicle Code Sec 257.252e(1), does not even apply to facts accepted as true, since only property owner or police can authorize tows off private property, which “state actor” (D) Scott states under oath ADMISSION “police not involved” Ex 9 para “1) Who contacted Service Towing Inc. ... in re 4 vehicles towed from 7568 Hudson Ave., .. adjacent lot 5/1/2020? Response Brian Kijewski-Area 33 Inspector”, working under Supervisor of Property & Maintenance, (D) Scott, per response, Doe-Kijewski is not a police officer. “7) Where you present 5/1/20 @ 7568 Hudson and adjacent lot when 4 vehicles were towed?..Response YES...9) Were Warren police present for towing .. 4 vehicles from 7568 Hudson ... Response No.”. “*Breakthrough*’s authority to tow vehicles derives from Michigan Vehicle Code, which allows for towing of an ‘abandoned vehicle’... ‘a vehicle that has remained on private property without consent of owner’ Mich Code L, Sec 257.252a(2)(a).. towing agency may take custody of an abandoned vehicle.. (i) at direction of police agency, Sec 257.252(a)(4), or (ii) request of owner of

private property ..vehicle is located, Sec 257.252a(10).” Tow company (Ds’) STI, ATL, Hertz Bros cannot rely on state code to violate (Ps) US Constitutional rights does not even apply per facts accepted as true. Ex 20 pg 1-2= 4 cars parked on (Ps’) private property. Owner property, Saint Anthony Monastery, Ex 21 LARA Michigan SOS, Ex 13 Deed pages 1-4 includes 5 properties including 8075 Packard Ave where (PN) lived before 7568 Hudson- Ex 36 expired driver’s license, Ex 14 Adjacent lot. 3 of cars parked on grass of adjacent lot owned by same entity. 1 of cars 2012 NISSAN Sentra parked on concrete Ex 20 pg 2. Each car towed=“overt act”. ADMISSIONS (D) SCOTT: “7) Where you present 5/1/20 @ 7568 Hudson Ave Warren Mi and the adjacent lot when the 4 vehicles were towed?..Response YES...9) Were Warren police present for towing 4 vehicles from 7568 Hudson ...No.”.

MAGISTRATE ERRED DISMISSING COMPLAINT SINCE ALL THAT IS NEEDED “STATE CLAIM FOR CIVIL CONSPIRACY” IS “OVERT ACT”, “SINGLE PLAN”, “INJURY TO COMPLAINANT” ECF 104

“For Plaintiff’s to state claim for civil conspiracy, ‘all that must be shown is a single plan, ..alleged coconspirator shared in general conspiratorial objective, and overt act was committed in furtherance of conspiracy that caused injury to complainant”, *Memphis*, 361 F3d 905. The “conspiracy” was to tow 4 licensed, insured cars from (PN) home and take (PT) personal property during covid pandemic when “citizens” not involved in fighting covid were not allowed on street. Settled law private parties can “conspired with state actors. (Ds’) Service Towing Inc=STI, Able Towing LLC=ATL, employees Hertz Bros., Sullivan acted “in concert”, “conspiracy” with state (Ds’), engage in conduct under “color of State law,” and may be subject to liability under section 1983 where they “act jointly” or conspire with state government officials. *Brentwood Acad. v. Tenn. Secondary Sch. Ath. Ass’n*, 531 US 288, 296; *Tower v. Glover*, 467 U.S. 914, 919; holding that, for purposes of finding liability under criminal law analogue of section 1983, 18 U.S.C. § 242, private individuals acting jointly with state officers engage in conduct “under color” of state law). All private defendants ATL, STI, owners (D) EDWARD Hertz (deceased), DENNIS HERTZ. BRUCE HERTZ, SANDRA HERTZ and employees=Sullivan “act jointly” and/or “conspire with state government officials” i.e. (D) Supervisor Scott et al., *Brentwood Acad. V Tenn. Secondary Sch. Ath. Ass’n*, *supra* with City of Warren Cummins, Ghanam, Warack,

Kijewski, Gauss, Does, (Ds') all acting in their 'individual capacities' at all times per facts of this complaint and conspired with private towing company STI, ATL and Hertz Bros., Sullivan, employees.

A) (Ds') STI, ATL, Hertz Bros claim "just fulfilling a contract", with (D) city of Warren, yet existence of a "contract", "with state and private actors, so that action may be attributed to the state', 'to take a particular action so that really that of state'" *Robertson et al v Breakthrough et al* @ 12. *Memphis Tenn Area Loc Am Postal Workers Union AFL-CIO v Memphis*, 361 F3d 898, 905, "that nexus test, state compulsion test, and conspiracy framework are all sufficient bases on which to find private company liable under Sec 1983..elements of these three theories: ..state compulsion test requires proof that state significantly encouraged or .. coerced either overtly or covertly, to take a particular action so ..really that of state.' *Moldowan*, 578 F3d at 399 CA6. "particular action" illegally tow cars, (Ds') STI, Hertz Bros., is mandated by their "contract", "so that choice is really that of state' *Moldowan, Id.* " " .. nexus test requires a sufficient close relationship (i.e. through state regulation *or contract*) between state and private actor so.. action may be attributed to state.'" *Robertson et al v Breakthrough Towing et al.*, at 12, i.e., "contract" (Ds') STI, Hertz Bros claim for immunity, in law shows liability, "contract) between state and private actor so that action may

be attributed to the state.” *Robertson et al v Breakthrough Towing et al.*, Id.
 .. 1983 civil conspiracy occurs where ‘private party has conspired with state
 officials to violate constitutional rights, and (3) an overt act was committed.’
Revis v Meldrum, 489 F3d 273, 290 CA6”, *Robertson et al v Breakthrough
 Towing et al.*, *supra* @ p12. 4 cars were illegally towed is “1983 civil
 conspiracy occurs... violate constitutional rights..and (3) an overt act was
 committed.” Overt Act: =Ex 9 (D) “state actor” Warren Property
 Maintenance Supervisor Scott ADMISSION, he was there, telephone call
 Ex 5 (D) Bruce Hertz ADMISSION, telephone call. Ex 19 (Ds’) STI, Hetz
 Bros Falsified tow sheets, falsifying address from correct address, 7568
 Hudson Ave, to incorrect address “7528 Hudson”, cars were towed from-
 falsified data was given to Warren Police Department enter into LIENS
 computer, See Ex 32 pg 1, 33 Michigan Dept State NOTICE ABANDONED
 VEHICLE, Ex 34 Registration same address 2-2012 MAZDAs 1) “Owner
 Name and Address: 2012 MAZDA JM1CW2CL0C01363 SW Elizabeth
 Nelson (see Ex 34 matching Registration for this MAZDA) 7568 Hudson
 Ave DATE VEHICLE ... LOCATION 05/01/2020 7528 Hudson Ave
 Warren” “overt act” MAZDA #2: “Owner Name and Address: 2012
 MAZDA -Ex 32 pg 2 Abandoned Vehicle Petition (VIN)
 JM1CW2BLXC0125056 Elizabeth Nelson 7568 Hudson Ave Date Vehicle

Location 05/01/2020 7528 Hudson Ave Warren...", again "falsifying address" submitting same to Warren Police to enter into LIENS computer causes falsified address to appear on PETITION HEARING ON ABANDONED VEHICLES.

STI, ATL, Hertz Bros., Sullivan knowing look suspicious taking 2 MAZDAs - & 2 other cars same address it's registered to, "falsified address"="overt act" to 7528 Hudson Ave Warren -submitting "overt act".

Ex 7 (D) Dennis Hertz admitting to towing 1 car, telephone call from "state actor" to tow cars=overt act= state compulsion test, and conspiracy framework are all sufficient bases on which to find private company liable under Sec 1983.

MAGISTRATE ERRED WHEN IT DID NOT OPINE THAT Ps' STATED A CLAIM OF STATE AND PRIVATE PARTIES TOWING VEHICLES, TAKING PERSONAL PROPERTY WHEN NO TICKET "NOTICE" WAS GIVEN IN RE CARS, PERSONAL PROPERTY ECF 104 DISMISSING CASE

Due Process: clause Fourteenth Amendment ensures no party will be deprived of property without notice & opportunity to be heard at a meaningful time and in a meaningful manner. *Fuentes v. Shevin*, 92 S. Ct. 1983, .. 14th protection of property has been broadly extended to "any significant property interest." *Boddie v. Connecticut*, 401 U.S. 371, 379, It is undisputed ..

Uninterrupted use of one's vehicle is a substantial property interest, ..before "local government may so interrupt its use, ..owner is entitled to due process." *Bell v. Burson*, 402 U.S. 535, 539. "state actors". Several of the "overt acts" are: 1) coming on the private property tow cars and take personal property of PT, 2) falsifying the address the cars were towed from. 3) Telephone call from City of Warren Property Doe Kijewski to STI, Hertz Bros Towing per ADMISSIONS. Per record no ticket or infraction was given for cars or personal property of Ps'.

"Private parties may also be liable under Sec 1983 if they 'willfully participated in joint actions with state agents' by joining a civil conspiracy with state officials *Memphis Tenn Area Loc.,... AFL CIO v ..Memphis*, 361 F3d 898, 905 CA 6. "knowingly allowed the seizure ...in reckless disregard of statute requirements' ...violated Plaintiffs clearly established Fourth Amendment rights to be free from unreasonable seizures' *Livingston*, 151 F.App'x at 476..for plaintiffs to state a claim for civil conspiracy 'all that must be shown is

that there was a single plan, *Robertson et al., v Breakthrough Towing LLC et al.*, @ p 6 para 2, "Plaintiffs .. suggest that ..tows were effected without any request of property owner, a circumstance not authorized by Mich. Code L Sec. 257.252a".

Magistrate erred by not finding Ds' violated (Ps') United States Constitutional rights of: **I. Due Process:** Fourteenth Amendment, (D)'s violated the (Ps') Constitutional rights. **US Constitution *Fourth Amendment rights applicable to (Ps') via the 14th Amendment US Constitution Ps' aver towing*** 4 vehicles off private property PROPERLY REGISTERED, TITLED, PLATES ISSUED, INSURED without notice, when courts were closed due to Covid 19, without court order is an improper seizure & taking personal property from behind house stated *supra* of (PT) prohibited by Fourth Amendment. include the protection of privacy against arbitrary invasion ... *United States v. Ortiz*, 422 U.S. 891, 95 S. Ct. 2585, *Berger v. State of New York*, 388 U.S. 41, 87 S. Ct. 1873, This much was made clear in *Jacobsen, supra*, where we explained that first clause of the Fourth Amendment "Protects two types of expectations, one involving 'searches,' the other 'seizures.' A 'search' occurs when an expectation of privacy that society is prepared to consider reasonable is infringed. A 'seizure' of property occurs where there is some meaningful interference with an individual's possessory interests in that property." 466 U. S., at 113.

- **MAGISTRATE ERRED TO THE PREJUDICE OF THE PLAINTIFFS WHEN IT OPINED THAT PLAINTISS DID NOT STATE A CAUSE OF ACTION OF DUE PROCESS UNDER 5, 14th AMENDMENT “STATE CREATED RISK” WHEN DEFENDANTS TOWED CARS 5/1/20 WHEN STATE WAS UNDER COVID LOCKDOWN ECF 104**

- Per ECF 6 Facts rewritten herein the defendants violated plaintiffs’ constitutional rights under united states constitution, 5th, 14th amendment, due process cl art 1 sec 17, art 1, sec 11, “Section 1983 imposes civil liability on a person acting under color of state law who deprives another of the ‘rights, privileges, or immunities secured by the constitution and laws.’” *Kallstrom v. city of Columbus*, 136 f.3d 1055, 1060 CA6 (quoting 42 USC § 1983). “[w]hile state ..does not shoulder an affirmative duty to protect its citizens from private acts of violence, it may not cause or greatly increase risk of harm to its citizens without due process of law through its own affirmative acts.” id. at 1066. (p) Ps’ claims (D) Scott ghanam , Cummins, Gauss, Hertz Bros, STI, ATL Ds’ in conspiracy were liable for plaintiffs increased “state created danger” theory of liability. “liability under state-created-danger theory is predicated upon affirmative acts by state which either create or increase risk that an individual will be exposed to private acts of (danger).” id. to bring a ‘state created danger’ claim, individual must

show: ‘(1) affirmative act by state which either created or increased risk [plaintiffs] would be exposed to an act of violence by a third party; (2) special danger to [plaintiffs] wherein state’s actions placed [plaintiffs] specifically at risk, as distinguished from a risk affects public at large; & (3) state knew or should have known ..its actions ..endangered [plaintiffs].’

Jones v. Reynolds, 438 F3d 685, 690 CA6 Harlow, 457 US @ 818.

Kallstrom, “an individual’s ‘interest in preserving her life is one of constitutional dimension.’” Kallstrom, 136 F3d at 1063.

- **MAGISTRATE ERRED TO PREJUDICE OF PLAINTIFFS WHEN IT DID NOT FIND A CAUSE OF ACTION WHEN DEFENDANTS FALSIFIED THE ADDRESS THAT CARS WERE TOWED FROM ON PAPERWORK AND/OR PLAINTIFFS HAD A DUE PROCESS RIGHT TO MAKE A POLICE REPORT IN RE SAME CONCERNING FALSIFICATION ECF 104 DENYING SAME**

Cars were towed from 7568 Hudson, address registered to. Paperwork filled out by (Ds’) STI, ATL , Hertz Bros., falsified to 7528 Hudson facts *supra* rewritten herein (Ds’) violated (Ps’) United States Constitutional rights Due process/equal protections of laws when per para 21 *supra*: 7/16/21 (Ps’) attempted to make a police report with Warren police Dept. concerning “falsification”. Doe Warren police officer refused to file police report. Ps’ had US Constitutional right to make police report since physical paperwork shown to Doe police officers exposed address falsified, “failure to report a crime” 5/1/20 cars towed and again 7/16/21 when attempt to file police report.

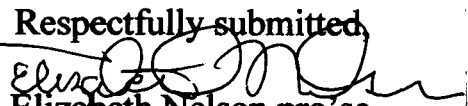
- THE MAGISTRATE ERRED TO PREJUDICE OF Ps' WHEN MAGISTRATE ORDER ECF 63 4/4/23 SET FORTH TIMELINE TO FILE CERTAIN DOCUMENTS ONE BEING AN AMENDED COMPLAINT BY 6/5/23 & 6/5/23 AMENDED COMPLAINT WAS FILED IDENTIFYING JOHN DOE DEFENDANTS ECF 73 MOTION FOR LEAVE AND SAME WAS DENIED ECF 103, IDENTIFYING (D) CURTIS GAUSS ET AL., WHO WROTE A TICKET WHEN CARS WERE TOWED 5/1/20

• Under Federal Rule of Civil Procedure 15(a), when a party seeks to amend their complaint after time for amendment as a matter of course, they must obtain either the opposing party's written consent or the court's leave. **The rule emphasizes that courts "should freely give leave when justice so requires". Denial of a motion for leave to amend a complaint is reviewed for abuse of discretion. A trial court is considered to have abused its discretion when its ruling is "based on an erroneous view of the law or a clearly erroneous assessment of the evidence"**².

It's well settled law that magistrate abuses it's discretion when failing to allow amended complaint identifying John Doe parties that are essential to complaint.

Wherefore Ps' pray Judge will reverse the order of the Magistrate and set the case for trial Federal Rule of Civil Procedure 72" Foman v Davis 371 US 178, "leave freely allowed".


Albert Thrower pro'se

Respectfully submitted,

Elizabeth Nelson pro'se

CERTIFICATE OF SERVICE

A copy of the OBJECTION TO THE MAGISTRATES REPORT has been served on all defendants thru their lawyers, US Mail, email this 2/20/24

A copy of this motion has been served on the below defendants after calling same to see if they agree with (Ps') position this 2/20/24

Mark Straetmans/ Rachel Selina 255 E Brown St #320 Birmingham, MI 48009 tel 2486459680

mstraetmans@berrymoorman.com

rselina@berrymoorman.com

Jenifer Mead PO Box 806042 St Clair Shores, MI 48080 tel 3134851250

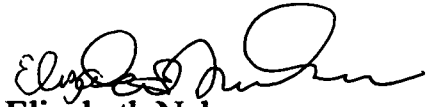
meadjenn@hotmail.com

Law Offices of Thomas H. Stidham. 1401 W Fort St. Rm 1006. Detroit, MI 48233. Telephone: (248) 303-0306. Fax: (313) 832-7661.

Tsstidham@hotmail.com



Albert Thrower pro se



Elizabeth Nelson pro se